

Appn No. 09/775,315
Amdt date October 5, 2012
Reply to Office action of March 11, 2008

REMARKS/ARGUMENTS

This amendment is in response to the Final rejection mailed March 11, 2008, from which an appeal was filed on June 11, 2008. The amendments and remarks presented here are in response to the Board Decision dated August 10, 2012 as well as the March 11, 2008 Office Action.

In the Final rejection, the Examiner rejected claim 11 under 35 U.S.C. §103(a) as allegedly obvious over Mayer (U.S. Patent No. 5,783,333). While Applicant maintains that the Examiner's interpretation of the water disclosed in Mayer as a binder (which interpretation the Board apparently did not address) is improper, Applicant has amended claim 11 to recite that the lithium manganese oxides and the lithium nickel cobalt oxides remain distinct chemical species and are bonded together by a *trace amount of a polymeric* first binder. Mayer fails to teach or suggest such a feature. Accordingly, independent claim 11 is allowable over Mayer.

The Examiner also rejected claims 1-4 under 35 U.S.C. §103(a) as allegedly obvious over Pynenburg, et al. (U.S. Patent No. 5,429,890) in view of Hasegawa, et al. (U.S. Patent No. 5,370,948) as evidenced by Imachi (U.S. Patent No. 7,056,622). Applicant maintains that neither Pynenburg nor Hasegawa, either alone or in combination, teach or suggest the recited ratio of lithium manganese oxides to lithium nickel manganese oxides or the recited excess of lithium nickel manganese oxides. However, in an effort to expedite allowance of this application, Applicant has amended independent claim 1 to recite that the lithium nickel manganese oxides comprise $Li_{1.03}Ni_{0.8}Mn_{0.2}O_2$. As neither Pynenburg nor Hasegawa teach or suggest this feature, independent claim 1, and claims 2-4 which depend therefrom, are allowable over Pynenburg and Hasegawa.

Claims 1-4 and 11 remain pending in this application. By this amendment, Applicant has amended claims 1 and 11 to place the claims in condition for allowance. The amendments find full support in the original specification, claims and drawings, and no new matter is presented. In view of the above amendments and remarks, Applicant submits that all of pending claims 1-4 and 11 are in condition for allowance. Applicant therefore respectfully requests reconsideration

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and a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number below.

Respectfully submitted,
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